

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 9, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Ref. No.: GLS-5136

HAWAII

Consent to Assign General Lease No. S-5136, Felisa S. Kaniho, Assignor, to Leonard Naboa Sr., Assignee, Milolii-Hoopulua, South Kona, Hawaii, Tax Map Key: 3rd/ 8-9-14:22

APPLICANT:

Felisa S. Kaniho, as Assignor, to Leonard Naboa Sr., husband of Loretta Naboa, Tenant in Severalty, whose mailing address is 89-1579 Milolii Road, Captain Cook, HI 96704, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION AND AREA:

Portion of Government lands of Milolii-Hoopulua, Lot 9, Phase II, situated at Hoopulua, South Kona, Hawaii, identified by Tax Map Key: 3rd/ 8-9-14:22, consisting of approximately .230 acres, as shown on the attached map labeled Exhibit A.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Residential purposes.

TERM OF LEASE:

65-years, commencing on December 31, 1986 and expiring on December 30, 2051. First rental reopening is scheduled for December 31, 2011.

ANNUAL RENTAL:

\$132.00. Due in semi-annual installments of \$66.00 on the First day of June and December of every year.

CONSIDERATION:

Gratis

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

Assignor/ Assignee, as individuals, is not required to register with DCCA.

REMARKS:

Pursuant to the authority granted by the Legislature of the State of Hawaii in Act 62 of the Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, and all other laws to the contrary, notwithstanding, including Chapter 171, Hawaii Revised Statutes. Authorizing the Department of Land and Natural Resources to negotiate and enter into long-term leases to persons residing in Milolii who were dispossessed or displaced as a result of the 1926 volcanic eruption of Mauna Loa on the Island of Hawaii.

At its meeting of October 24, 1986, Item F-2, the Board approved the awarding of leases for residential purposes at Milolii-Hoopulua Lots, Phase II, Milolii-Hoopulua, South Kona, Hawaii. A drawing of Lots was conducted on September 27, 1986, and Yvonne L. Teves was awarded a 65-year residential lease over Lot 9, identified as Tax Map Key: 3rd/ 8-9-14:22. A resident of Kauai, Mrs. Teves was unable to construct a house on the parcel, therefore, soon after, requested to assign General Lease No. S-5136 to a Sheldyn E. Baniaga.

At its meeting of November 20, 1992, Item F-1-g, the Board approved the assignment of General Lease No. S-5136, Yvonne L. Teves, Assignor, to Sheldyn E. Baniaga. Within a year, Mrs. Baniaga unfortunately was not able to construct a residence and began falling

behind in the rent. Facing default, Mrs. Baniaga decided to assign the lease to her aunty, Felisa S. Kaniho.

At its meeting of January 12, 1996, Item F-1-c, the Board approved the assignment of General Lease No. S-5136, Sheldyn E. Baniaga, Assignor, to Felisa S. Kaniho, Assignee.

By letter dated November 15, 2005, Felisa S. Kaniho requested to assign General Lease No. S-5136 to her son, Leonard Naboa Sr., as she no longer resides in Milolii. At present, Leonard Naboa Sr. resides in the Milolii house and maintains the lease rent, taxes, mortgage and insurance. An executed Assignment of Lease document between Mr. Naboa and Mrs. Kaniho was received on April 24, 2006. Mr. Leonard Naboa Sr., is a qualified applicant as a son of Felisa S. Kaniho, a qualified applicant under Act 362, HSL 1987.

Staff reviewed the file and can report that for the past two (2) years, annual rent has been current. There is no requirements for performance bond or fire insurance. A Notice of Default was sent on 11/22/04 for liability insurance. Records indicate that the liability insurance has lapsed and that there is no current policy in effect as no policies are currently available. The Lessee has never been cited for any other illegal or unlawful activity on the State property.

At the ending of last year, the Milolii residents were notified by their respective insurance agents that all insurance companies were no longer offering liability insurance coverage to the Milolii residents, particularly if the State of Hawaii is to be named as an "Additional Insured." As a result, Lessees are unable to acquire the required liability coverage at time of policy renewal. Aware of the difficulties the Milolii residents face in satisfying the insurance requirements, staff is in the process of amending the lease to momentarily place a hold on the need for Lessees to acquire liability coverage from only those companies licensed to do business in Hawaii and of a need to have the State of Hawaii be named as an additional insured. However, that should those types of policies again become available to the Milolii residents/ Lessees that they will be required to acquire such coverage.

Leonard Naboa Sr., as Assignee, has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

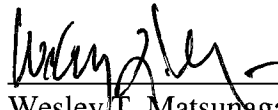
The first rental reopening is scheduled for 12/31/2011. There is no outstanding rental reopening issues.

RECOMMENDATION:

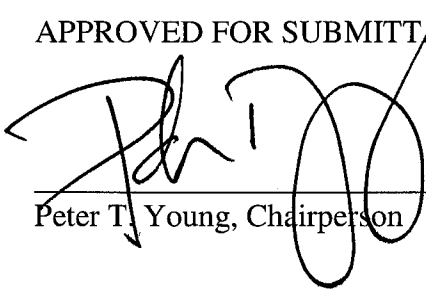
That the Board consent to the assignment of General Lease No. S-5136 from Felisa S. Kaniho, as Assignor, to Leonard Naboa Sr., as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

